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A N
ENQUIRY
INTO THE
O A T H

Required OF

Non-Conformists

By an ACT Made at

OXFORD.

Wherein the True Meaning of IT, and
the Warrantableness of Taking it, is Considered.

By **JOHN CORBETT**, late Minister at *Chichester*.

L O N D O N,

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AN
ENQUIRY
INTO THE
RIGHTS
OF THE
PEOPLE
OF GREAT
BRITAIN
AND
OF THE
TOWNSHIP OF
ST. MARTIN
IN THE
PARISH OF
ST. MARTIN
IN THE
COUNTY OF
DUBLIN
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An ENQUIRY into the
OATH

Required of *NON-CONFORMISTS*

By an ACT made at

OXFORD.

The OATH.

I A. B. do Swear, that it is not Lawful
upon any pretence whatsoever, to take
Arms against the King; and that I do abhor
that Traiterous Position of taking Arms by his
Authority against his Person, or against those
that are Commissionated by him, in pursuance of
such Commissions; and that I will not at any
time endeavour any Alteration of Government
either in Church or State.

THE Interpretation of the Oath here given, is not peremptorily determined, but probably concluded and humbly proposed, by the Inquirer, to men of sober and Impartial Judgment, in order to the clearing of his own Judgment, and the settling of his own Conscience about this important Matter.

In Considering the Warrantableness of taking this Oath, these two main things do necessarily come under consideration ;

I. Whether the words do signifie a just and good meaning according to a Rational Interpretation ?

II. Whether such just and good meaning was the very meaning of the Law-makers in the Enacting of this form of Words.

The First Inquiry is, whether the Words do signifie a just and good meaning according to a Rational interpretation. Now in the way of Rational Interpretation, these things are to Observed ;

1. We must proceed no otherwise than the Words will bear in their ordinary signification. For Words as taken in their common use are the first and most noted means of signifying the Mind of those that use them. Therefore to force upon them a sense in it self Rational enough, which

which is Alien from their ordinary signification, is indeed Irrational.

2. A Meaning, which the Words taken by themselves may bear, may not be rigidly insisted on against the intent of the Law. For the Words of a Law are many times more rigorous than the intent; nevertheless, they are but subservient to it, and may not be urged to the perverting of it.

3. It is Rational to Interpret a Law, if the Words will bear it, in a sense agreeable to right Reason and Equity. For by the Reverence that is due to Governours, we are forbidden to put upon their Acts a sense repugnant to Reason and Equity, unless that repugnancy be apparent.

4. It is Rational to consider this Law not by it self alone, but as it is a Law of this Realm, and in Conjunction with the other Laws there; of and consequently to interpret it, as farre as the Words will bear, in a sense consistent with the constitution of the Realm, and with the other Laws, and with the ordinary legal Practice. For the Law-makers must not be supposed to enact things inconsistent, unless the inconsistency be manifest.

In this way of proceeding I come to consider the just and good meaning which the words of the in-joined do admit.

The

The First Part of the OATH.

I do Swear that it is not Lawful upon any pretence whatsoever to take Arms against the King.

IN this part these or the like words [*I do hold or I do believe*] are necessarily and evidently to be understood. For the thing that the Law seeks or aims at, is not the truth of the Proposition, which is presupposed, but the discovery of the swearers Judgment concerning it. This may further appear from some other Act, where the said Words are expressed in the like imposition. [*I Swear that I hold it unlawful to take Arms against the King.*]

As for these words [*upon any pretence whatsoever*] they signifie no less than upon any cause, or in any case whatsoever; so that this Tenet (as I apprehend) is sworn to without any restriction or limitation. But then it must be considered, that these Words [*to take Arms against the King*] must be taken in their due and legal sense; and so taken, they import the resisting of the Sovereign Authority, or the power ordained of God, which is not
lawful

Lawful upon any pretence whatsoever. I know it is objected that some of the most eminent Assertors of the power of Princes, as *Grotius*, *Barclay*, &c. have Restrictions and Cases of Exception in this Point. But I conceive that the objected Cases of Exception delivered by them, are not properly Restrictions laid upon the Tenet, but Explanations of its meaning, that their Readers may not mistake some for delinquents against it, who indeed are not such according to their Judgement.

The design of this part of the Oath, is to Renounce all Rebellion, and all resistance contrary to due Subjection, as not to be justified upon any Cause, or in any Case, that may come to pass. And its due legal meaning is Rationally conceived to be, That it is not Lawful upon any pretence whatsoever for any of the King's Majesties Subjects to take Arms against his Person, or Authority, or any of his Rights and Dignities.

The

The Second Part of the OATH.

And that I do abhorre that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him, in pursuance of such Commissions.

THE Position of taking Arms by the Kings Authority against his Person is justly to be disclaimed. Though the King's Person and his Authority be distinct, yet they are not separate. The King's Authority is inherent in his Person, and in no other. Though it be exercised by an other during his Natural incapacity, as in his infancy, yet his Person alone is the proper Seat and Subject of it, and that other exerciseth it only in his Name, and as his Vicegerent. Indeed sometimes an inferiour Authority, as that of a Judge, or Justice of Peace, or Constable is called the King's Authority; but in proper signification it is no more than the Authority of the said Officers derived from the King as the Fountain thereof. Now it is most absurdly spoken or imagined that the King's Authority, which is inherent in his Person only, can be exerted in taking Arms against

against his Person. Likewise it is as absurdly spoken or imagined, that an Authority inherent in an other, but derived from the King and dependent on him, should be so exerted.

The following Words [*or against those that are Commissionated by him*] are most Rationally understood of those, that are Legally Commissionated by him. Likewise by pursuance of such Commissions is meant Legal Pursuance. It cannot reasonably be supposed, that a Law, on the behalf of Persons Commissionated, doth intend any other than such as are Commissionated not against, but according to, Law. A Commission against Law is no Commission. Wherefore Commissionated in this place is of the same import with authorized.

B •

The

The Third Part of the OATH.

That I will not at any time endeavour any Alteration of Government either in Church or State.

I Confess that these Words [*I will not at any time endeavour any Alteration*] taken by themselves, may be interpreted so unlimitedly as to import the abjuring of all kind of endeavour of any Alteration whatsoever, whether great or small, for the better or the worse, necessary or unnecessary. Nevertheless being considered as the words of a Law in Conjunction with other Laws, they may be well limited to a more temperate and equitable meaning. We cannot reasonably imagine that the intendment of this Oath extends so far as the abjuring of all lawful endeavour in our place and calling of any alteration whatsoever in any point of Government, though never so small, never so necessary, never so advantageous for the publick good in this or after times. The informing and petitioning of Parliament-men, and legally acting in them in order to the alteration of particular Laws is warranted by the Fundamental Constitution of this Realm. Wherefore it is
Rationally

Rationally conceived, that the true intent of this part is to engage against disturbing the Publick Peace and Government now Established, by Rebellion, Sedition or any other unlawful practice; and that the endeavour here abjured is only such as is forbidden or not Warrantable by Law. For a Law ought to be interpreted, as far as is possible, so as to be consistent with Equity and Justice; and it ought not to be so interpreted, as to damn the ordinary Course of Law, and the necessary allowed practice, such as is the Alteration of Laws both in Civil and Ecclesiastical matters from time to time, as need requires.

The Restrictive Interpretation here given, is no forcing of the intendment of the Oath in this part into a narrower Compass, than the form of Expression can well bear. Indefinite Words are to be limited according to the Nature and Reason of the thing about which they are used. So is the indefinite expression of endeavour to be here limited that the Oath may bear a just and equal sense in Conformity to other Laws, and to the ordinary Legal Practice.

Besides, seeing the Words [*any Alteration of Government*] are an unlimited form of Expression, and put no difference between the most alterable, and the most unalterable Points, certainly it is most Rational to conceive that the Word endeavour

your is to be taken in a restrained sense. For it is not to be thought that the Law should intend the perpetual securing of the least and most alterable points of Government, as much as the greatest and most unalterable. Yet it could intend no less, if the abjuring of all kind of endeavour of any Alteration were intended. Moreover though the Law doth not explicitly, yet it doth implicitly distinguish in the present case, and restrain it to Rebellious, Seditious, Schismatical, or other unlawful endeavour. For it is the declared end of the Law to obviate the designs of such [as take opportunity to instill Poisonous Principles of Schism and Rebellion into the hearts of his Majesties Subjects] as the Words thereof are.

The second thing to be considered is, whether the just and good meaning before set forth was the very meaning of the Law-makers in the enacting of this form of words.

A Law being the Will of the Lawgiver must be taken in that meaning, which is therein immediately signified by him to be his Will. And that meaning being not his secret or private but his declared and publick will, must some way or other be so evident and open, as that the Subjects may be sufficiently informed thereof, if they be not culpably negligent. That the meaning of the Law-giver be made thus open and evident is a
con-

condition necessary to be constituting of the Subjects Duty. Now to discern what it is, they are to use their Judgments of Discretion, that their submission to it may be according to right Reason and Good Conscience. In the present Case the declared and publick will and meaning of the King and his two Houses of Parliament is to be considered and discerned.

Sometimes the meaning of the Law-giver may be so clearly expressed in the Law it self, that he, who hath the understanding of a man, cannot or need not mistake it, and then there needs no farther inquiry about it. Sometimes being not so clearly expressed in the Law it self, it may be more fully done by some other declarative act, or open express signification of the Law-giver, and then also there needs no farther inquiry. But in case the said meaning be not so clearly signified by the Law it self, nor by some Authoritative Declaration, nor by other open express signification, then of necessity recourse must be had to a Rational interpretation: And according to Reason, that sense, which the words do conveniently import, which is agreeable to the Law of God, and which the Constitution of the Realm, and other Laws thereof, and the ordinary legal practice do require, is to be taken for the declared and publick Will and meaning of the Law-giver. Especially if it answer the design of that very particular Law.

The

The meaning of the Oath now considered is not so clearly expressed in the Words taken by themselves, as to prevent all mistaking or doubting thereof in all, that are men of Understanding, and make use of it. The Words may bear a far more extensive sense, than what may be judged to be the true intent and meaning of the Law-makers. The sense of many Laws, which are unquestionably Just and Good, do lye in a Narrower Compass than the full extent of the Words taken by themselves, as is manifest in these Divine Laws. *Swear not at all. Call no man Father on the Earth.*

The Law-makers have not by any Authoritative Declaration, or open act signified that their meaning in this Oath is as extensive as any sense, which the Words taken by themselves will bear, or that it is not to be limited to an equitable intendment in a Consistency with the other Laws, and that legal practice, which they themselves own and maintain. Therefore that equal sense which the Words do fairly bear, and which bears Conformity to the Law of God, and which the other Laws, and the Constitution of the Realm, and the ordinary legal practice do require, and which suits with the design of this very Law, is in Reason to be taken for their declared and publick Will and meaning in this Oath.

Here

Here let us look back upon the Interpretation before given. Is there any just Reason to conceive that the Law-makers or the Major part of them did in the first part of the Oath intend by taking Arms against the King, any other than what is such by the Law of this Kingdom? Or that in the second Part, they intended by those that are Commissionated by him any others than those that are Commissionated by him according to Law? Or that in the third Part, they intended the abjuring of all kind of endeavour, and not that only which the Law forbids, or is not warranted by Law? And more especially concerning the third Part, which hath been most called into question, can it Rationally be supposed that the generality or Majority of them intended to bind men by Oath from lawfully endeavouring in their places such Changes about particular Laws or Canons, as they themselves ordinarily make in their Places by Voting in Parliament, and some of them being Clergy-men by Voting in Convocation? Or can it Rationally be supposed that they intended to bind only one sort of men, called Non-conformists, from lawful endeavours of the publick good, while others were left free.

If it be Objected that Law-makers may in some particular Law have a meaning repugnant to Equity, and to the Ordinary Course of Law and

legal Practice, my answer is, that the Reverence and Charity, which is due to our Superiours forbids us to conceive that they have such a meaning, unless we be compell'd to it by convincing Reason. Now we are not compell'd to conceive thus by the Words of the Oath, for they carry it fairly for a very good meaning; nor by the Scope of the Law (which is expressly declared to prevent the distilling of the Principles of Schism and Rebellion into the hearts of his Majesties Subjects); nor yet by any publick or open Act of the Law-Makers. Have the Majority of them as so many single Persons severally declared such a meaning, as is suggested in the Objection? Or can it reasonably be imagined that they would ever so declare? Or is there any other Evidence or convincing Reason to be produced for it?

The Will of the Lawgiver, which the Subjects are bound to take notice of, is that which is so publick and open, that they may be inform'd of it, if they be not culpably negligent. But if any shall imagine him to have a private Will or Aim in the contrivance of a Law different from his publick and open Will and meaning, the Subjects are not concerned therein, because it is not the Law or Will of the Lawgiver as such. For a Law is the Will of the Governour, not as meerly existent, but as declared, Wherefore touching this Oath, that which the Subjects are concerned in, is to know
what

what is the apparent or sufficiently declared meaning of the Law-makers therein, and that the same is Just and Good.

Being it is further noted, that it is no more than the meaning of the Law-makers expressed in the Words of the Oath, touching two general Positions, and a general promise, that is sworn unto in the taking thereof. In the first part of this Oath the Person, upon whom it is imposed, is called to swear this general Tenet according to the true intent of the Words, *That it is not lawful upon any pretence whatsoever to take Arms against the King*; but not that this or that case is a taking Arms against the King, which is not signified by this Oath, but by the Law and State of this Kingdom. In the second Part he is called to abjure the general Position of *taking Arms by the King's Authority against his Person or those that are commissioned by him according to his Laws*. But who are Commissionated according to Law, and who are not, is not signified by this Oath, but by the Law of this Kingdom. Likewise in the third Part he is called to make this General promise upon Oath, *that he will not at any time endeavour any Alteration of Government either in Church or State by any unlawful means*. But what means are unlawful, and what are not, is not signified by this Oath, but by the Law and Constitution of this Kingdom. And it behoves him in all particular Cases, that may

come under the said Generals, to judge and act as the said Law and Constitution doth determine.

I have used the best of my Understanding in this Inquiry ; and I should not thus labour in it, were it not my own concernment. What I can discern thereof I have impartially set down : yet if any thing here written should be found Erroneous, I disclaim and revoke it. The issue of the whole disquisition is to propose it to the Consideration of Sober, Judicious and Unprejudiced Persons, whether the full meaning of the prescribed Oath be not expressed in this more explicate form here following.

I Do Swear, that I do believe that it is not Lawful upon any pretence whatsoever, for any of the King's Majesties Subjects to take Arms against his Person or Authority, or any of his Rights and Dignities ; And that I do abhor the Traiterous Position of taking Arms by his Authority against his Person, or against those that are Legally Commissionated by him, in the Legal pursuance of such Commissions ; And that I will not at any time endeavour any Alteration of Government either in Church or State, by Rebellion, Sedition, or any other means forbidden or not Warranted by Law.

It

It is the Duty of a Subject to give due security for his Loyalty to the King and his Government ; And it is the Property of one that feareth God, to fear an Oath.

I think I have set forth the true intent and meaning of the Oath, and I do not see how it can be reasonably taken otherwise. Nevertheless in the matter here discussed, I am unavoidably timorous, and therefore have published this Inquiry to the intent, that if I be in the right, I may be confirmed in it by the sufficient Testimony of others ; but in Case I have misunderstood it, that I may be better informed, and set Right. My design is to expedite my self and others concern'd in the taking of this Oath from groundless scrupulosity ; yet I would not encourage my self or others to take it in a wrong meaning. If I take it, it must be in the sense before given, which I think is a full renouncing of those Principles of Schism and Rebellion, against which this Law designs to secure the Government.

FINIS.

Several Tracts not yet Printed, prepared for the Press, and left under Mr. John Corbett's own hand-writing, intended shortly to be Published, are as follows ;

1. **M**atrimonial Purity.
 2. An Humble endeavour of some plain and brief Explication of the Decrees and Operations of God about the free Actions of Men. More especially of the Operations of Divine Grace.
 3. A Discourse of the Church and of the Ministry thereof.
 4. A Tract of Certainty and Infallibility.
 5. Of Divine Worship, in three Parts ; 1. Of the Nature, Kinds, Parts and Adjuncts of Divine Worship. 2. Of Idolatry. 3. Of Superstition less than Idolatry.
 6. The true State of the Ancient Episcopacy.
 7. The present Ecclesiastical Government, compared with the Ancient Episcopacy.
 8. A Consideration of the present State of Conformity in the Church of *England*.
 9. An Account of his, and other's Judgment and Practice, and their Vindication against Misrepresentations made of them, and Hearty desire of Unity in the Church, and of Peace and Concord among all true Protestants for the strengthening of their Common Interest in this time of Danger.
- With

With his Judgment as to Communion with Parish Churches in the Worship of God.

10. His Humble Representation of his Case touching the Exercise of his Ministry.

11. Discourses between Dr. *Gunning*, late Bishop of *Chichester*, and himself; wherein are several Humble Defences made both as to his Principles and Practice.